

Message Text

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ACTION IO-11

INFO OCT-01 ISO-00 AF-06 ARA-06 EA-07 EUR-12 NEA-10 FEA-01

ACDA-05 AGR-05 AID-05 CEA-01 CEQ-01 CG-00 CIAE-00

CIEP-01 OFA-01 COME-00 DLOS-04 DODE-00 DOTE-00 EB-07

EPA-01 ERDA-05 FMC-01 TRSE-00 H-02 INR-07 INT-05

JUSE-00 L-03 NSAE-00 NSC-05 NSF-01 OES-03 OMB-01

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TO SECSTATE WASHDC 5721

INFO AMEMBASSY BONN

C O N F I D E N T I A L SECTION 1 OF 2 USUN 0444

E.O. 11652: GDS

TAGS: PLOS, UN

SUBJ: LOS: ENGO GROUP INTERSESSIONAL MEETING

1. SUMMARY. ENGO GROUP INTERSESSIONAL MEETING BEGAN WITH EXTENSIVE REVIEW OF ARTICLE NINE OF SNT (GENERAL PRINCIPLES REGARDING ACTIVITIES IN THE AREA). SMALLER PRIVATE GROUP OF KEY DELEGATIONS WAS ORGANIZED BY BRAZIL AND MET BEFORE ENGO GROUP MEETING AND DURING IT TO CONSIDER ARTICLE NINE IN PARALLEL TO LARGER GROUP. WHEN BOTH GROUPS COMPLETED THEIR WORK CHAIRMAN ENGO PRODUCED A NEW VERSION OF ARTICLE NINE INCORPORATING SIGNIFICANT ELEMENTS OF U.S. PROPOSAL FOR REVISION OF ARTICLE NINE AND NEW LDC PROPOSALS ADVANCED IN PRIVATE MEETINGS. GROUP THEN PROCEEDED TO DEBATE ARTICLE TWENTY-ONE (NATURE AND FUNDAMENTAL PRINCIPLES OF THE FUNCTIONING OF THE AUTHORITY) AND REVISED TEXT WAS PRODUCED. END SUMMARY

2. APPROXIMATELY 25 COUNTRIES (OUR OF 35 INVITED) ARE
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ATTENDING MEETING. THERE IS LITTLE AFRICAN REPRESENTATION

BUT OTHERWISE COMPOSITION IS WELL-BALANCED. NOTABLE ABSENCES, HOWEVER, ARE DE SOTO (PERU), ALOUNE (ALGERIA) LAUTERPACHT (AUSTRALIA) AND PINTO (SRI LANKA).

3. AT OPENING SESSION CHAIRMAN ENGO STATED HE WISHED TO AVOID ARTICLE-BY-ARTICLE REVIEW OF PART ONE OF SNT, PREFERRING CONSIDERATION OF THE CRITICAL ISSUES IN DISPUTE. GROUP AGREED TO TAKE UP ARTICLES NINE, TWENTY-ONE AND TWENTY-TWO INITIALLY.

4. DISCUSSIONS HAVE BEEN CARRIED OUT IN FORMAL SESSIONS AND IN SMALLER PRIVATE GROUPS. MOST IMPORTANT OF THESE SMALLER GROUPS IS ONE CONVENED BY BRAZIL (THOMPSON-FLORES) INCLUDING US, CHILE, SINGAPORE, MEXICO, NORWAY, JAMAICA, AND PERU (REPRESENTED BY NY MISSION). KENYA HAS BEEN INVITED BUT HAS NOT YET ATTENDED. AD HOC MEMBERS ARE ADDED AND DROPPED AS OCCASION WARRANTS, E.G. FRG AND AUSTRALIA PARTICIPATED DURING ARTICLE NINE DISCUSSION. EXPECT FRANCE WILL ATTEND FRIDAY SMALL GROUP MEETING AFTER MARTIN-SANE ARRIVES. GROUP OF FIVE HAS MET TWICE TO COORDINATE TACTICS FOR MEETINGS.

5. FIRST TWO DAYS DEVOTED TO DETAILED DISCUSSION OF ARTICLE NINE. LDC SPOKESMEN INDICATED WILLINGNESS TO ATTEMPT BALANCE IN ARTICLE NINE BETWEEN CONCEPTS OF PROTECTION FOR LAND-BASED PRODUCERS FROM ADVERSE IMPACTS OF SEABED PRODUCTION AND PROTECTION FOR CONSUMERS OF SUCH MINERALS. IN PARTICULAR, U.S. PROPOSAL TO INCLUDE PRINCIPLE OF INCREASING AVAILABILITY OF RESOURCES MET NO SIGNIFICANT OPPOSITION. HOWEVER, LDC'S MAINTAINED STRONG SUPPORT FOR MECHANISM TO PROTECT LAND-BASED PRODUCERS FROM ANTICIPATED ADVERSE IMPACTS OF SEABED PRODUCTION IN ADDITION TO PROVIDING FOR AFTER-THE-FACT REMEDIES SUCH AS COMPENSATION. SIGNIFICANTLY, DURING DISCUSSIONS OF ECONOMIC IMPLICATIONS ISSUE, THERE WAS NO REFERENCE TO VESTING INTERNATIONAL AUTHORITY WITH POWER TO CONTROL PRICES AND PRODUCTION, ALTHOUGH THERE MAY BE DELEGATIONS NOT PRESENT AT THIS MEETING WHO MAY CONSIDER RAISING THE ISSUE DURING THE MARCH SESSION. THERE WAS SOME SUPPORT FOR REFERENCE TO JUST AND STABLE PRICES, BUT THE DISCUSSIONS INDICATED THAT IT WOULD PROBABLY NOT BE PRESSED FURTHER. INSTEAD, CONSIDERATION FOCUSED EXCLUSIVELY ON COMMODITY ARRANGEMENTS AND COMPENSATION.

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6. CONSIDERABLE ATTENTION WAS PAID TO DEFINING CONDITIONS BY WHICH ANY PROTECTIVE MECHANISMS MIGHT BE TRIGGERED. (SNT ARTICLE NINE, ONE (B)). LDC'S PRESSED FOR SOFTENING OF STRICT QUALIFYING CONDITIONS SUGGESTED BY U.S. REP PER US DRAFT AMENDMENTS (NINE TWO (B)) BUT APPEARED WILLING TO ACCEPT A STANDARD QUOTE SUBSTANTIAL DECLINE IN MINERAL EXPORT EARNINGS . . . BEGIN BRACKETS WHICH END BRACKETS REPRESENT A SIGNIFICANT SHARE OF THEIR GROSS DOMESTIC PRODUCT OR FOREIGN

EXCHANGE EARNINGS WHEN SUCH DECLINE IS CAUSED BY ACTIVITIES IN THE AREA. END QUOTE THEY DID NOT WANT TO REQUIRE A COUNTRY TO MEET STANDARDS IN BOTH FOREIGN EXCHANGE EARNINGS AND GROSS NATIONAL PRODUCT. IN ADDITION, LDC'S SUPPORTED CONCEPT OF QUOTE AVOID OR MINIMIZE END QUOTE RATHER THAN US LANGUAGE, QUOTE OFFSET END QUOTE. HOWEVER, THERE APPEARED TO BE WILLINGNESS TO ACCEPT A MORE NEUTRAL TERM LIKE AMELIORATE, PREVENT, REMEDY, OR PROTECT AGAINST.

7. IT WAS CLEAR THAT LDC'S ARE LOOKING TO INTERNATIONAL COMMODITY ARRANGEMENTS TO PROVIDE PROTECTION FROM ADVERSE ECONOMIC IMPLICATIONS. THERE WAS PRIVATE DISCUSSION OF FORM SUCH ARRANGEMENTS SHOULD TAKE AND THE ROLE CONTEMPLATED FOR INTERNATIONAL AUTHORITY IN RESPECT TO SUCH ARRANGEMENTS. HOWEVER, THIS DISCUSSION CONTINUES TO REVEAL DIFFERENCES AND WAS NOT REFLECTED IN CHAIRMAN'S PROPOSED NEW TEXT FOR ARTICLE NINE. COMPENSATORY ARRANGEMENTS OF AN UNSPECIFIED NATURE WOULD ALSO SERVE TO REMEDY DAMAGE AFTER-THE-FACT. HOWEVER, BRAZIL STRONGLY OPPOSED REFERENCE TO EXISTING FINANCIAL ARRANGEMENTS, INDICATING THAT THOSE WHO DIRECTLY BENEFIT FROM SEABED PRODUCTION SHOULD COMPENSATE FOR DAMAGE AND THAT IN SUCH CASES LOANS TO LDC'S WERE INAPPROPRIATE.

8. CHILE AND BRAZIL ALSO RAISED ISSUE OF PROTECTION DURING INTERIM PERIOD BETWEEN CONCLUSION OF TREATY AND AGREEMENT ON ANY FUTURE COMMODITY ARRANGEMENTS. BRAZIL PROPOSED SOME FORM OF LIMITATION ON SEABED PRODUCTION DURING A LIMITED PERIOD. IN PRIVATE GROUP MEETING REFERRED TO PARA 4, LDC LEADERSHIP CONSISTENTLY REFERRED TO PERIOD OF FIFTEEN YEARS IN WHICH OVERALL LIMIT ON PRODUCTION WOULD BE GEARED TO THE GROWTH SEGMENT OF THE NICKEL MARKET.

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9. AT END OF SECOND DAY, AFTER INSENSITIVE NEGOTIATIONS, ENGO DETERMINED THAT IT WOULD NOT BE POSSIBLE TO REACH AGREEMENT ON SPECIFIC REVISION OF ARTICLE NINE BUT THAT HE WOULD PREPARE A DRAFT THAT WOULD ATTEMPT TO REFLECT THE DISCUSSIONS AND TO ACCOMMODATE THE INTERESTS EXPRESSED. TEXT OF ENGO DRAFT, REPEATED BELOW, WAS PRESENTED TO MEETING. IT DOES NOT HAVE ENDORSEMENT OF ANY DELEGATION BUT DOES ACCURATELY REFLECT THE SUBSTANTIVE DIRECTION OF DISCUSSIONS. SIGNIFICANTLY, THE TEXT DRAWS ON LANGUAGE FROM THE AMENDMENTS CIRCULATED BY THE UNITED STATES IN CERTAIN KEY ASPECTS AND ON SOME OF THE NEW PROPOSALS ADVANCED BY LDC LEADERSHIP IN PRIVATE MEETINGS. ENGO WAS CAREFUL TO EXPLAIN THAT NEW TEXT IS CHAIRMAN'S PROPOSAL AND WILL REQUIRE FURTHER NEGOTIATION AT LATER STAGE.

BEGIN TEXT:

QUOTE ACTIVITIES IN THE AREA SHALL BE UNDERTAKEN IN
SUCH A MANNER AS TO:

1. FOSTER THE HEALTHY DEVELOPMENT OF THE WORLD ECONOMY
AND A BALANCED GROWTH IN INTERNATIONAL TRADE, AND TO PROMOTE
INTERNATIONAL CO-OPERATION FOR THE OVERALL DEVELOPMENT
OF ALL COUNTRIES, ESPECIALLY DEVELOPING COUNTRIES;

2. EXPAND OPPORTUNITIES FOR ALL STATES PARTIES IN
PARTICIPATING IN THE DEVELOPMENT OF THE RESOURCES OF THE AREA;

3. INCREASE AVAILABILITY OF RESOURCES TO MEET WORLD DEMAND;

4. PROTECT AGAINST THE ADVERSE ECONOMIC EFFECTS OF A
SUBSTANTIAL DECLINE IN THE MINERAL EXPORT EARNING OF DEVELOPING
COUNTRIES FOR WHOM EXPORT REVENUES FROM MINERALS OR RAW
MATERIALS ALSO UNDER EXPLOITATION IN THE AREA REPRESENT
A SIGNIFICANT SHARE OF THEIR GROSS DOMESTIC PRODUCT
OR FOREIGN EXCHANGE EARNINGS, WHEN SUCH DECLINE IS CAUSED
BY ACTIVITIES IN THE AREA BY:

(I) FACILITATING, THROUGH EXISTING FORUMS OR SUCH NEW
ARRANGEMENTS AS MAY BE APPROPRIATE AND IN WHICH ALL
AFFECTED PARTIES PARTICIPATE, THE GROWTH, EFFICIENCY
AND STABILITY OF MARKETS FOR THOSE CLASSES OF COMMODITIES
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PRODUCED FROM THE AREA, AT PRICES REMUNERATIVE TO PRODUCERS
AND FAIR TO CONSUMERS;

(II) ASSURING THAT DURING AN INTERIM PERIOD, TOTAL
PRODUCTION FROM THE AREA SHALL NOT EXCEED AN AMOUNT
SPECIFIED IN ACCORDANCE WITH ARTICLE . . .;

(III) A SYSTEM OF COMPENSATION IN RESPECT OF THE LOSSES
SPECIFIED ABOVE.

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5. ENSURE THEIR SAFE, ORDERLY AND EFFICIENT CONDUCT AND, IN ACCORDANCE WITH COMMONLY USED PRINCIPLES OF CONVERSATION, THE AVOIDANCE OF UNNECESSARY WASTE;

6. ENSURE EQUITABLE SHARING IN AND DISTRIBUTION OF FINANCIAL AND OTHER ECONOMIC BENEFITS AMONG STATES PARTIES FROM THE ACTIVITIES IN THE AREA, TAKING INTO PARTICULAR CONSIDERATION THE INTERESTS AND NEEDS OF THE DEVELOPING COUNTRIES, IN ACCORDANCE WITH ARTICLE... AND CONSISTENT WITH ARTICLES ELEVEN, EIGHTEEN AND TWENTY-THREE. END QUOTE

10. FOLLOWING ARTICLE NINE DISCUSSION, GROUP TOOK UP ARTICLE TWENTY-ONE. DURING RELATIVELY BRIEF DISCUSSION, US REP EXPLAINED TWO SUBSTANTIVE PROBLEMS WITH ARTICLE TWENTY-ONE IN SENT. (1) THIS ARTICLE WHICH DESCRIBES QUOTE FUNDAMENTAL PRINCIPLES OF THE FUNCTIONING OF THE AUTHORITY END QUOTE IS THE APPROPRIATE PLACE FOR A TREATY ASSURANCE THAT THE PURPOSE OF THE AUTHORITY IS TO PROMOTE THE EXPLORATION FOR AND EXPLOITATION OF THE RESOURCES OF THE AREA. IN THE PAST LDC'S HAVE GIVEN CONFIDENTIAL

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PRIVATE ASSURANCES THAT THE AUTHORITY WILL PROMOTE THE DEVELOPMENT OF RESOURCES AND THEREFORE SHOULD BE WILLING TO INCORPORATE IT AS A PRIMARY OBJECTIVE SO THAT IT CAN BE UNDERSTOOD THAT THE ARTICLE NINE OBJECTIVE OF PROTECTION OF LAND-BASED PRODUCERS CANNOT BE CONSTRUED TO MEAN THAT DEVELOPMENT OF THE RESOURCES COULD BE CONTROLLED. (2) PARAGRAPH ONE OF ARTICLE TWENTY-ONE IN SENT PROVIDES FOR THE AUTHORITY TO QUOTE ADMINISTER THE AREA, MANAGE ITS RESOURCES, AND CONTROL THE ACTIVITIES OF THE AREA. END QUOTE THE CONCEPT OF ADMINISTERING THE AREA GOES WELL

BEYOND THE BOUNDS OF WHAT THE US AND MANY OTHER DC'S CAN ACCEPT IN TERMS OF THE POWERS OF THE INTERNATIONAL AUTHORITY. IT IMPLIES THAT THE AUTHORITY WOULD ADMINISTER SUCH ACTIVITIES AS SCIENTIFIC RESEARCH, THE LAYING OF PIPELINES AND CABLES, AND OTHER ACTIVITIES. US REP IN STRONG STATEMENT MADE IT CLEAR THAT WE CANNOT ACCEPT AN EXTENSION OF THE AUTHORITY'S POWER BEYOND EXPLORATION AND EXPLOITATION.

11. STATEMENTS WERE THEN MADE BY BRAZIL, CHILE AND SINGAPORE INDICATING NO FLEXIBILITY ON POINT (1) PARA 10 (ABOVE) BUT SHOWING CERTAIN DEGREE OF FLEXIBILITY OF POINT (2). NORWAY PROPOSED A REFORMULATION OF ARTICLE TWENTY-ONE (1) WHICH DROPPES THE CONCEPT OF ADMINISTRATION OF THE AREA BUT FAILED TO ELABORATE PROMOTION OF EXPLORATION OF AND EXPLOITATION AS THE PRIMARY OBJECTIVE OF THE AUTHORITY. US REP REQUESTED TEMPORARY RECESS FOR CONSULTATION WITH INTERESTED PARTIES. FOLLOWING DISCUSSION WITH USSR, FRG, BRAZIL, UK, JAMAICA, TRINIDAD AND TOBAGO, SINGAPORE, AND CHAIRMAN, THE FOLLOWING COMPROMISE TEXT WAS AGREED IN THE ENGO GROUP:

QUOTE

THE AUTHORITY IS THE ORGANIZATION THROUGH WHICH STATES PARTIES SHALL ORGANIZE AND CONTROL THE ACTIVITIES IN THE AREA, PARTICULARLY WITH A VIEW TOWARDS ADMINISTRATION OF THE RESOURCES IN ACCORDANCE WITH THE PROVISIONS OF THIS CONVENTION. IN SO DOING, THE AUTHORITY SHALL PROMOTE THE OBJECTIVES SET FORTH IN ARTICLE NINE, TWENTY-THREE, AND...END QUOTE

US PRESSED FOR SUBSTITUTION OF WORD QUOTE SUPERVISION END QUOTE FOR QUOTE CONTROL END QUOTE. SINGAPORE (KOH) INDICATED THAT G77 WAS MAKING MAJOR CONSESSION IN AGREEING TO DROP CONCEPT OF QUOTE ADMINISTRATION OF THE AREA END QUOTE, AND THEREFORE COULD NOT ALSO AGREE TO WEAKEN THE CONCEPT OF QUOTE CONTROL END QUOTE. CONFIDENTIAL

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USSR ALSO URGED CHANGE FROM QUOTE CONTROL END QUOTE SINCE ITS TRANSLATION INTO RUSSIAN IMPLIED SWEEPING COMPREHENSIVE POWERS.

12. ARTICLE TWENTY-ONE COMPROMISE WAS CAREFULLY AND DELICATELY WORKED OUT BEFORE AND DURING THE LARGER MEETING WITH KEY LDC LEADERSHIP AND WAS INTENDED TO PROVE TO US THAT LDC'S ARE WILLING TO MORE OPENLY IN DIRECTION OF OTHER US AMENDMENTS IF PERCEPTIBLE PROGRESS IS MADE ON QUESTION OF ECONOMIC IMPLICATIONS. WHILE LCD'S REGARD CHAIRMAN'S ARTICLE NINE AS MAJOR CONSESSION TO US, SINCE IT DROPS REFERENCE TO PRICE AND PRODUCTION CONTROLS BY AUTHORITY AND CONCENTRATES ON COMMODITY ARRANGMENTS, THEY ALSO FEEL THAT IT IS QUOTE BALLPARK END QUOTE PROPOSAL WHICH IF ACCEPTED BY US AND OTHER INDUSTRIALIZED COUNTRIES AFTER MORE DETAILED NEGOTIATION, WILL ENABLE THEM TO MORE MUCH CLOSER TO US ON ISSUES OF ACCESS SYSTEM AND POWERS AND FUNCTIONS OF MACHINERY.

13. CLEARLY NATURE OF DISCUSSIONS ON ARTICLE NINE AND TWENTY-ONE

REVEAL POSSIBILITIES FOR VERY SIGNIFICANT MOVEMENT IN CI AT MARCH SESSION AND INDICATE NEED TO CAREFULLY RE-APPRAISE US TACTICS AND POSITIONS IN LIGHT OF CHANGING MOOD AND ATMOSPHERE ON PART OF KEY LDC LEADERS, BEARING IN MIND, HOWEVER, THAT OBVIOUS DESIRE TO REACH FAIRLY RAPID AGREEMENT IN CI MAY BE FRUSTRATED IF PERU DOES NOT FOLLOW TREND OF IF LEADERSHIP IN G77 UNABLE TO BRING OTHERS ALONG IN MARCH. (ONE SIGNIFICANT FACTOR IN NATURE OF CONSULTATIONS HAS BEEN A CLEAR CHANGE IN BRAZIL'S SUBSTANTIVE POSITION TOWARD A MORE MODERATE APPROACH. IT APPEARS THAT WE CAN EXPECT CONTINUED CONSTRUCTIVE PARTICIPATION FROM THEM IN CI NEGOTIATIONS ON SUCH ISSUES

AS ECONOMIC IMPLICATIONS, SYSTEMS OF ACCESS AND MACHINERY.)

14. DURING GROUP OF FIVE MEETINGS HELD TO COORDINATE TACTICAL POSITIONS DURING CONSULTATIONS, ONE KEY SUBSTANTIVE POINT EMERGED. THE JAPANESE HAVE SERIOUS RESERVATIONS ABOUT ARTICLE TWENTY-TWO PARAGRAPH FOUR OF US PROPOSED AMENDMENTS. (IN PRIVATE DISCUSSIONS WITH FRG, THEY INDICATED THAT VIRTUALLY ALL DC'S OPPOSE THIS PROVISION.) THE JAPANESE INDICATED THAT THEY WOULD BE OBLIGED TO OPPOSE US POSITION IF THE ISSUE IS RAISED AND APPEALED TO US NOT TO DO SO IN THE INTERESTS OF GROUP OF FIVE SOLIDARITY. DEL THEREFORE CONSIDERS IT ADVISABLE NOT TO RAISE TWENTY-TWO (FOUR) AT THIS TIME.

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15. FOR AMEMBASSY BONN: PLEASE DELIVER QUOTED TEXTS ONLY FROM PARAS NINE AND ELEVEN TO CHRISTOPHER PINTO, EMBASSY SRI LANKA. NOTE ACCOMPANYING TEXTS SHOULD STATE THAT LEIGH RATINER, US COMMITTEE I REP, KNOWING OF AMBASSADOR PINTO'S CONTINUED STRONG INTERESTS IN THE COMMITTEE I NEGOTIATIONS, WISHES TO PROVIDE HIM WITH THE LATEST TEXTS PROPOSED BY THE CHAIRMAN OF COMMITTEE I FOR THE REVISION OF CRITICAL ARTICLES.
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